for the alleged reason that she, herself, was guilty of negligence which contributed as a proximate cause of the injury. It seems to be a well settled doctrine that the guest or passenger is bound to exercise due care and caution as well as the driver, and if the negligence of the person contributes in any way approximately to the accident, such negligence will bar a recovery. *Chicago City R. Co.* v. *Wall,* 93 Ill. App. 411; *West Chicago R. Co.* v. *Dedoff,* 92 Ill. App. 547; *Bush* v. *Union Pacific R. Co.,* 62 Kans. 709; *Whitman* v. *Fisher,* 98 Me. 575; *Smith* v. *Maine Cent. R. Co.,* 87 Me. 339; *Anderson* v. *Metropolitan St. R. Co.,* (Supr. Ct. App. T.) 30 Misc. (N. Y.) 104; *Galveston* v. *Kutac,* 72 Tex. 643. In an action brought by a passenger who received injuries while riding as a guest of her husband, it is not error to charge that she should exercise reasonable care to learn of the danger and avoid injury. *Ulrich* v. *The Toledo Consolidated Street Railway Company,* 10 Ohio Cir. Ct. R. 635. The degree of care to be exercised varies with the circumstances and emergencies and the fact that the deceased was silent does not follow as a matter of law that she was negligent, that being a question for the jury. *Hoag* v. *N. Y. Cent. & H. R. R. Co.,* 111 N. Y. 199. It is the duty of the passenger, when he has the opportunity to do so, as well as of the driver to learn of the danger, and avoid it if practicable. *Smith* v. *Maine Central Railroad Company,* 87 Me. 339; *State* v. *B. & Me. R. Co.,* 80 Me. 430; *Brickell* v. *N. Y. Cent. & H. R. R. R. Co.,* 120 N. Y. 290, 24 N. E. 449. The facts in the principal case are even more favorable to a recovery than are those in some of the cases cited. The case of *Whitman* v. *Fisher,* 98 Me. 575, is distinguishable from this case inasmuch as the wife knew that the horse was blind and consequently a greater degree of care should have been exercised. A recent case advances the doctrine that it is not the duty of the teamster's helper to see that he acts prudently in the absence of knowledge or reason to believe that he is not a careful driver or a prudent man. *Agnew* v. *Metropolitan St. Ry. Co.,* 125 Mo. App. 587.

WILLS—CONSTRUCTION—PRESUMPTION AGAINST DISINHERITING HEIRS.—Testator gave all personalty and a life estate in his realty to his wife. The fourth paragraph of his will read: "The following number of acres of land I have given my children by deeds already free as a part of their share, John G. Zimmermann twenty-three 23 Conrad Zimmermann twenty acres 20 Anna Karp thirty acres 30 all I intended to give her by this instrument Barbara M. Southgate twenty acres 20." The will was in the handwriting of the testator. Evidence showed that there had been no quarrel or misunderstanding with Anna Karp, who was testator's daughter. *Held,* that as to the estate over on the termination of the life estate in the realty, testator died intestate, and that Anna Karp is entitled to share with other heirs in the distribution of the real estate in question. *Southgate et al.* v. *Karp et al.* (1908), — Mich. —, 118 N. W. 600, 15 Det. L. News 891.

The facts, standing alone, mark this as a case of unusual interest. It was determined in the Circuit Court that Anna Karp should receive no share in the testator's realty, and while the Supreme Court's reversal of this finding is undoubtedly well advised, it is illustrative of the diversity of opinion that

arises where the testator's meaning is ambiguous. It is obvious that no testamentary disposition of the realty on termination of the life estate was made. The Court holds that the words, "Anna Karp thirty acres (30) all I intended to give her by this instrument" cannot be said to express such a request, wish or direction as to be accorded the effect of precatory words. The ambiguity of testator's words just quoted is only too apparent, and in following the well grounded principle that heirs are not to be disinherited by conjecture the Court is clearly in the right. McALVAY, J., who delivers the opinion, likewise calls attention to the fact that the words used are negative, and that "mere negative words will not suffice to disinherit heirs but there must be an actual disposition of the estate to some other person"—and here there is no such other disposition. The principles the Court relies upon are so fundamental in the law of wills as to make citation of authority unnecessary.